

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RICKEY PHILLIPS, as Administrator)	
of the Estate of SUSAN PHILLIPS, deceased,)	
)	
Plaintiff,)	CASE NO. 2:06-cv-84-WKW-CSC
)	
vs.)	
)	
PACTIV CORPORATION and)	
LOUISIANA-PACIFIC CORPORATION,)	
)	
Defendants.)	
)	

**DEFENDANT PACTIV CORPORATION'S RULE 12(B)(6) MOTION TO DISMISS AND
RULE 12(E) MOTION FOR A MORE DEFINITE STATEMENT**

Defendant Pactiv Corporation ("Pactiv"), by its attorneys and pursuant to Federal Rule of Civil Procedure 12(b)(6), hereby moves to dismiss the First Amended Complaint for failure to state a claim upon which relief can be granted. In the alternative, if Counts 3, 6, and/or 9 of the First Amended Complaint are not dismissed, Pactiv moves pursuant to Federal Rule of Civil Procedure 12(e) for a more definitive statement of those claims. In support of its motion, Pactiv files herewith a memorandum of law.

Dated: March 22, 2006

By: **s/ John A. Earnhardt**
H. Thomas Wells, Jr.
Alabama Bar No. WEL004
twells@maynarcooper.com
John A. Earnhardt
Alabama Bar No. EAR006
jearnhardt@maynardcooper.com
Counsel for Pactiv Corporation

OF COUNSEL:

MAYNARD, COOPER & GALE, P.C.

1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, AL 35203
Tel: (205) 254-1000
Fax: (205) 254-1999

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Counsel for Defendant Louisiana-Pacific Corporation:

Dennis R. Bailey, Esq.
R. Austin Huffaker, Esq.
RUSHTON, STAKELY, JOHNSON, & GARRETT, P.A.
184 Commerce Street
Montgomery, AL 36104
drb@rsjg.com
rah2@rsjg.com

Attorneys for Plaintiffs:

W. Eason Mitchell
The Colom Law Firm, LLC
Post Office Box 866
Columbus, MS 39703-0866
emitchell@colom.com

Gregory A. Cade
Environmental Litigation Group
3529 Seventh Avenue South
Birmingham, AL 35222
gregc@elglaw.com

s/ John A. Earnhardt
OF COUNSEL